

AMERICAN ARBITRATION ASSOCIATION

AMSOUTH BANK

CLAIMANT

VS.

NO. 69 148 Y 14861 06

FRAZIER DEVELOPMENT, LLC;
C.E. FRAZIER, JR.; H. CLAIBORNE FRAZIER;
and AUSTIN W. FRAZIER

RESPONDENTS

ARBITRATOR'S DECISION AND AWARD

I, the undersigned Arbitrator, having been designated in accordance with the Arbitration Agreement entered into by the parties, having been duly sworn faithfully and fairly to hear the matters in controversy between the parties in accordance with their agreement, the Standards of Conduct for Arbitrators, and the Rules of the American Arbitration Association, and having reviewed the documents submitted by the parties and the stipulations of the parties set forth below, hereby issue the Arbitrator's Decision and Award as follows:

I. Introduction

Claimant AmSouth Bank ("AmSouth") filed a Demand for Arbitration with the American Arbitrators Association ("AAA"), pursuant to the contracts between AmSouth on the one hand and Frazier Development, LLC; C.E. Frazier, Jr.; H. Claiborne Frazier; and Austin W. Frazier (collectively, "Respondents") on the other hand seeking to recover under personal guarantees executed by the Respondents in favor of AmSouth.¹

¹ Respondents raised arbitration as an affirmative defense in Civil Action No. 3:06 cv 416 HTW-LRA pending in the U.S. District Court for the Southern District of Mississippi ("District Court Action"). The District Court Action has been held in abeyance pending conclusion of this arbitration proceeding.

II. Notice to Parties of Hearing Date

1. Pursuant to a Notice of Hearing from AAA dated March 29, 2007, this matter was set for hearing on May 30, 2007.
2. Prior to the hearing, C. Frazier was hospitalized. Counsel for the Respondents requested a continuance, and AmSouth agreed to the continuance.
3. By agreement of the parties, the hearing was rescheduled for July 19, 2007.

III. Arbitrator's Findings

1. On June 16, 2005, Vicksburg Developers, LLC entered into a Loan Agreement ("Agreement 1") with AmSouth whereby AmSouth agreed to provide financing in the original principal sum of \$3,420,000.00 for a project in the City of Vicksburg known as Halls Ferry Station in Warren County, Mississippi ("Project").
2. On June 16, 2005, Vicksburg Developers, LLC entered into a Loan Agreement ("Agreement 2") with AmSouth whereby AmSouth agreed to provide additional financing in the original principal sum of \$250,000.00 for the Project.
3. In conjunction with Agreements 1 and 2, Vicksburg Developers, LLC executed other documents regarding the Project. On or about June 16, 2005, the Respondents each executed a Guaranty of Payment and Completion ("Guaranty").
4. Vicksburg Developers, LLC defaulted in payments under Agreement 1 and Agreement 2.²
5. On or about June 20, 2006, by and through counsel, AmSouth sent a demand letter ("Demand Letter") to Vicksburg Developers, LLC and Respondents

² AmSouth has filed a judicial foreclosure action regarding the Project in the Chancery Court of Warren County, Mississippi, Cause No. 2006-333GN.

accelerating the amounts due under Agreements 1 and 2, and demanding payment under each Guaranty. Respondents failed to respond to the Demand Letter as requested therein.

6. AmSouth is entitled to a judgment against Respondents, jointly and severally, in the principal amount of \$2,915,286.43, plus pre-judgment interest thereon at the specified rate in Agreements 1 and 2, post-judgment interest at the legal rate until satisfied, late charges, and all costs and expenses of collection, including a reasonable attorney's fee and legal expenses.

IV. Arbitrator's Award

7. AmSouth and Respondents have stipulated to an Arbitration Award in favor of AmSouth and against Respondents, jointly and severally, which is hereby awarded:

- a. Principal: \$2,915,286.43;
- b. Interest as of July 19, 2007: \$295,340.66 plus post-award interest per diem at \$647.80 and post-judgment interest at the federal legal rate;
- c. Late charges: \$13,502.63;
- d. Appraisal: \$4,500.00;
- e. Arbitration filing fee: \$11,250.00;
- f. Arbitrator's fee: \$4,500.00; and
- g. Attorney's fees and expenses: \$ 84,554.05 (this amount includes an estimated \$20,000 for future costs of collection, including, but not limited to, the Vicksburg Developers judicial foreclosure).

TOTAL ARBITRATION AWARD AS OF JULY 19, 2007: \$3,328,933.77.

8. AmSouth and the Respondents have further stipulated as follows:

a. If the amounts above in subparagraphs a, c, d, e, f, and AmSouth's actual incurred attorney fees and expenses are satisfied in full before September 30, 2007, AmSouth will waive interest and any portion of the attorney fee and expense award that has not been incurred prior to the date the above amounts have been satisfied.

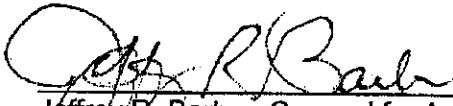
b. Respondents will enter a consent judgment in the District Court Action reflecting the terms and conditions of this award. AmSouth will be free to execute on the consent judgment immediately upon entry and the Respondents will take no action to oppose the enrollment of the consent judgment in state court.

c. The individual Respondents executed this Arbitrator's Decision and Award in the presence of a notary public as evidenced by their signatures hereto. H. Claiborne Frazier represented to the Arbitrator that he is the Managing Member of Frazier Development, LLC with authorization to execute the Arbitrator's Decision and Award and he executed this Arbitrator's Decision and Award in the presence of a notary public as evidenced by his signature hereto.

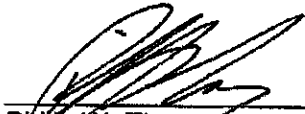
DATED: July 30th, 2007.


William Myers, Arbitrator

AGREED TO AND APPROVED:

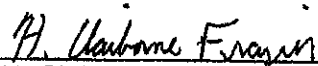


Jeffrey R. Barber, Counsel for AmSouth (MSB No. 1982)
WATKINS LUDLAM WINTER & STENNIS, P.A.
633 North State Street
Post Office Box 427
Jackson, Mississippi 39205
Telephone (601) 949-4900
Telecopy (601) 949-4804

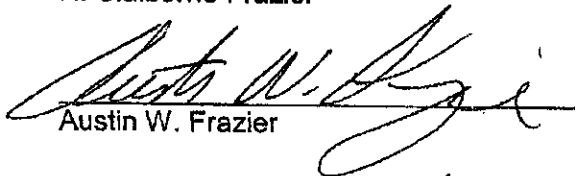


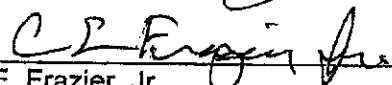
Philip W. Thomas, Counsel for Respondents (MSB No. 9667)
PHILIP W. THOMAS, P.A.
747 North Congress Street (39202)
P.O. Box 24464
Jackson, MS 39225
Telephone: (601) 714-5660
Telecopy: (601) 714-5659

FRAZIER DEVELOPMENT, LLC

By: 
H. Claiborne Frazier
Its: Managing Member


H. Claiborne Frazier


Austin W. Frazier


C.E. Frazier, Jr.

STATE OF Mississippi
COUNTY OF Hinds

Personally appeared before me, the undersigned authority in and for the said county and state, on this 24th day of July, 2007, within my jurisdiction, the within named H. Clairborne Frazier duly identified before me, who acknowledged that he is Managing Member of Frazier Development, LLC, and that for and on behalf of the said company, and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said company so to do.

Amy L. Kittrell
NOTARY PUBLIC





My Commission Expires:

(Affix official seal)

STATE OF Mississippi
COUNTY OF Hinds

Personally appeared before me, the undersigned authority in and for the said county and state, on this 24th day of July, 2007, within my jurisdiction, the within named Austin W. Frazier, duly identified before me, who acknowledged that he executed the above and foregoing instrument.


NOTARY PUBLIC



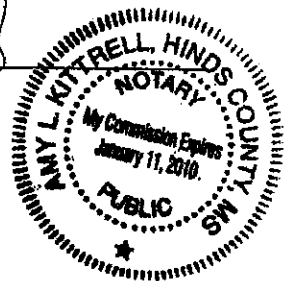
My Commission Expires:

(Affix official seal)

STATE OF Mississippi
COUNTY OF Hinds

Personally appeared before me, the undersigned authority in and for the said county and state, on this 24th day of July, 2007, within my jurisdiction, the within named H. Claiborne Frazier, duly identified before me, who acknowledged that he executed the above and foregoing instrument.

Amy L. Kittrell
NOTARY PUBLIC



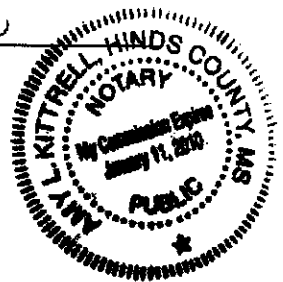
My Commission Expires:

(Affix official seal)

STATE OF Mississippi
COUNTY OF Hinds

Personally appeared before me, the undersigned authority in and for the said county and state, on this 24th day of July, 2007, within my jurisdiction, the within named C. E. Frazier, Jr., duly identified before me, who acknowledged that he executed the above and foregoing instrument.

Amy L. Kittrell
NOTARY PUBLIC



My Commission Expires:

(Affix official seal)